



GREENWAY CHAMBERS

Tips from the Bar: working with Counsel and appearing in Court

Briefing Counsel, appearing in Court and the use of technology



Introduction – Appearing in Court

1. Solicitors often appear in Court in the lead up to the final hearing (even if counsel has been briefed), generally for:
 - a. Directions hearings; and
 - b. Motions.
2. Touch on following topics:
 - a. What to expect;
 - b. How to prepare; and
 - c. Tips and tricks.



Directions Hearings

1. Depending on the Court, also known as: mention, case management hearing, review, call-over.
2. Involves a short court appearance, often in a list, where a registrar or judge (depending on the Court) will make orders about the next steps to prepare a matter for hearing.
3. To address procedural matters before trial, such as:
 - a. timetables for pleadings and/or evidence;
 - b. referring proceedings to ADR;
 - c. directions for expert evidence (single, conclaves etc);
 - d. procedural matters for discovery, court books and hearings (electronic, AVL, mode of evidence etc); and
 - e. timetables for exchange of hearing documents (submissions, objections, trial schedules etc).

Motions/Applications

1. Depending on the Court, also known as: Notices of Motion, Interlocutory Applications, Applications in the Case
2. Generally involve a written application, supported by evidence, for interlocutory or interim (not final) orders.
3. Often concern contested procedural issues such as: applications for particulars, discovery, extensions of time, vacate hearing dates, access orders etc.
4. Almost invariably made in writing and supported by evidence which has been personally served in advance of the return date for the Motion: UCPR Pt 18; FCR Pt 17.
 - a. Prepare the evidence with your submissions in mind
5. Return date (directions) vs hearing of Motion

Going to Court – preparation

1. The basics: date/time, location (AVL), who is presiding, number in the list, who do you appear for
2. Requirements of the particular Court and List: these can be found in Practice Notes (NB: new protocols since pandemic), talking to colleagues, arriving early to observe, ask practitioners who appear there regularly
3. Prepare your application:
 - a. What are you seeking – Short Minutes
 - b. Does the Court/Registrar have power – law
 - c. Why should you get it – facts (make a note of evidence you read)
4. Your opponent: discuss, consent orders, hostility

Advocacy

1. Arrive – appearance sheet, opponent, claim the space
2. Plan the first 30 seconds – appearance, first sentences
3. Structure – organise your argument
4. Key points only – time
5. Speed – need to be understood
6. Assist the Court – written submissions, chronology
7. Questions – preparation, what if you don't know
8. Etiquette – clothing, mobiles, interrupting, standing, bowing
9. Terminology – “may it please”, “move”, “read”, “tender”
10. Practise – mooting, workshops, saying ‘yes’



Electronic briefing



Tips for electronic briefing

1. An electronic brief is not a bundle of documents in a folder
2. No two electronic briefs are the same
3. Pay attention to page numbering
4. Minimise the number of folders
5. Pay attention to document name
6. Keep correspondence chronological
7. Don't be afraid to do a hybrid brief
8. Try not to prepare an electronic brief by scanning hard copy documents



Tips and traps



*Alone we can do little, together
we can do so much
- Helen Keller*



Tips no matter who you are working with

1. Call the clerk / secretary / practice manager
2. Ask how the barrister wants to be briefed
3. Provide an index
4. Chronology
5. Observations
6. Advise of upcoming deadlines
7. Provide all documents
8. Documents in chronological order where practical



Working with paper

1. Avoid overfilling binders
2. Paginate everything
3. Clearly label cover and spine with matter details and solicitor
4. Double sided pages avoids blanks
5. Bulldog clips / staples – controversial
6. Avoid duplicates



E Briefs

1. Save all documents as PDF
2. Name documents clearly
3. Index to accord with the naming of documents
4. Avoid documents within emails
5. Ensure that the final Court Book / bundle is paginated AND is identical to the hard copy version
6. Chronological order where possible



Other tips

1. Read the practice note
2. Its ok to follow up
3. Advise of special requirements for billing
4. Different matters have different requirements
5. Providing any advices given to the client (by other Counsel or you)



Final remarks

1. Think about how you would like to receive the brief
2. It won't go unnoticed



Questions

